

§ 223.4

Treasury shall be satisfied from such company's financial statement and from any further evidence or information he may require, and from such examination of the company, at its own expense, as he may cause to be made, that such company has a capital fully paid up in cash of not less than \$250,000, is solvent and financially and otherwise qualified to do the business provided for in said Act, and is able to keep and perform its contracts, he will, subject to the further conditions herein contained, issue a certificate of authority to such company, under the seal of the Treasury Department, to qualify as surety on obligations permitted or required by the laws of the United States to be given with one or more sureties, for a term expiring on the last day of June next following. The certificate of authority shall be renewed annually on the first day of July, so long as the company remains qualified under the law and the regulations in this part, and transmits to the Assistant Commissioner, Comptroller by March 1 each year the fee in accordance with the provisions of § 223.22(a)(3).

(b) If a company meets the requirements for a certificate of authority as an acceptable surety on Federal bonds in all respects except that it is a United States branch of a company not incorporated under the laws of the United States or of any State, or it is limited by its articles of incorporation or corporate charter to reinsure business only, it may be issued a certificate of authority as a reinsuring company on Federal bonds. The fees for initial application and renewal of a certificate as a reinsuring company shall be the same as the fees for a certificate of authority as an acceptable surety on Federal bonds.

[33 FR 8390, June 6, 1968, as amended at 34 FR 20188, Dec. 24, 1969; 37 FR 1232, Jan. 27, 1972; 40 FR 6499 Feb. 12, 1975; 40 FR 8335, Feb. 27, 1975; 42 FR 8637, Feb. 11, 1977; 43 FR 12678, Mar. 27, 1978; 43 FR 39089, Sept. 1, 1978; 49 FR 47002, Nov. 30, 1984]

§ 223.4 Deposits.

No such company will be granted authority to do business under the provisions of the act referred to in § 223.1 unless it shall have and maintain on deposit with the Insurance Commis-

31 CFR Ch. II (7-1-11 Edition)

sioner, or other proper financial officer, of the State in which it is incorporated, or of any other State of the United States, for the protection of claimants, including all its policyholders in the United States, legal investments having a current market value of not less than \$100,000.

[36 FR 9630, May 27, 1971]

§ 223.5 Business.

(a) The company must engage in the business of suretyship whether or not also making contracts in other classes of insurance, but shall not be engaged in any type or class of business not authorized by its charter or the laws of the State in which the company is incorporated. It must be the intention of the company to engage actively in the execution of surety bonds in favor of the United States.

(b) No bond is acceptable if it has been executed (signed and/or otherwise validated) by a company or its agent in a State where it has not obtained that State's license to do surety business. Although a company must be licensed in the State or other area in which it executes a bond, it need not be licensed in the State or other area in which the principal resides or where the contract is to be performed. The term *other area* includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

[40 FR 6499, Feb. 12, 1975]

§ 223.6 Requirements applicable to surety companies.

Every company now or hereafter authorized to do business under the act of Congress referred to in § 223.1 shall be subject to the regulations contained in this part.

[38 FR 22779, Aug. 24, 1973]

§ 223.7 Investment of capital and assets.

The cash capital and other funds of every such company must be safely invested in accordance with the laws of the State in which it is incorporated and will be valued on the basis set forth in § 223.9. The Secretary of the Treasury will periodically issue instructions for the guidance of companies with respect to investments and

Fiscal Service, Treasury

§ 223.11

other matters. These guidelines may be updated from time to time to meet changing conditions in the industry.

[42 FR 8637, Feb. 11, 1977]

§ 223.8 Financial reports.

(a) Every such company will be required to file with the Assistant Commissioner, Comptroller on or before the last day of January of each year, a statement of its financial condition made up as of the close of the preceding calendar year upon the annual statement blank adopted by the National Association of Insurance Commissioners, signed and sworn to by its president and secretary.

On or before the last days of April, July and October of each year, every such company shall file a financial statement with the Assistant Commissioner, Comptroller as of the last day of the preceding month. A form is prescribed by the Treasury for this purpose. The quarterly statement form of the National Association of Insurance Commissioners when modified to conform to the Treasury's requirements, may be substituted for the Treasury's form. The quarterly statement will be signed and sworn to by the company's president and secretary or their authorized designees.

(b) Every such company shall furnish such other exhibits or information, and in such manner as the Secretary of the Treasury may at any time require.

[10 FR 2348, Mar. 1, 1945, as amended at 42 FR 8637, Feb. 11, 1977; 49 FR 47002, Nov. 30, 1984]

§ 223.9 Valuation of assets and liabilities.

In determining the financial condition of every such company, its assets and liabilities will be computed in accordance with the guidelines contained in the Treasury's current Annual Letter to Executive Heads of Surety Companies. However, the Secretary of the Treasury may value the assets and liabilities of such companies in his discretion. Credit will be allowed for reinsurance in all classes of risks if the reinsuring company holds a certificate of authority from the Secretary of the Treasury, or has been recognized as an

admitted reinsurer in accord with § 223.12.

[42 FR 8637, Feb. 11, 1977]

§ 223.10 Limitation of risk.

Except as provided in § 223.11, no company holding a certificate of authority shall underwrite any risk on any bond or policy on behalf of any individual, firm, association, or corporation, whether or not the United States is interested as a party thereto, the amount of which is greater than 10 percent of the paid-up capital and surplus of such company, as determined by the Secretary of the Treasury. That figure is hereinafter referred to as the underwriting limitation.

[34 FR 20188, Dec. 24, 1969]

§ 223.11 Limitation of risk: Protective methods.

The limitation of risk prescribed in § 223.10 may be complied with by the following methods:

(a) *Coinsurance*. Two or more companies may underwrite a risk on any bond or policy, the amount of which does not exceed their aggregate underwriting limitations. Each company shall limit its liability upon the face of the bond or policy, to a definite specified amount which shall be within its underwriting limitation.

(b) *Reinsurance*. (1) In respect to bonds running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond with one or more companies holding a certificate of authority from the Secretary of the Treasury. Such reinsurance shall not be in excess of the underwriting limitation of the reinsuring company. Where reinsurance is contemplated, Federal agencies may accept a bond from the direct writing company in satisfaction of the total bond requirement even though it may exceed the direct writing company's underwriting limitation. Within the 45 day period, the direct writing company shall furnish to the Federal agency any necessary reinsurance agreements. However, a Federal agency may, at its discretion, require that reinsurance be obtained within a